

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

AT RICHMOND, JULY 30, 2020

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PETITION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2019-00201

For approval of its 2019 DSM Update  
pursuant to § 56-585.1 A 5 of the Code of Virginia

FINAL ORDER

On December 3, 2019, Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion" or "Company"), pursuant to § 56-585.1 A 5 of the Code of Virginia ("Code"), the Rules Governing Utility Rate Applications and Annual Informational Filings<sup>1</sup> of the State Corporation Commission ("Commission"), the Commission's Rules Governing Utility Promotional Allowances,<sup>2</sup> the Commission's Rules Governing Cost/Benefit Measures Required for Demand-Side Management Programs,<sup>3</sup> the Commission's Rules Governing the Evaluation, Measurement and Verification of the Effects of Utility-Sponsored Demand-Side Management Programs,<sup>4</sup> and the directive contained in Ordering Paragraph (4) of the Commission's May 2, 2019 Order in Case No. PUR-2018-00168,<sup>5</sup> as amended by the Commission's September 17,

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<sup>1</sup> 20 VAC 5-201-10 *et seq.*

<sup>2</sup> 20 VAC 5-303-10 *et seq.*

<sup>3</sup> 20 VAC 5-304-10 *et seq.*

<sup>4</sup> 20 VAC 5-318-10 *et seq.*

<sup>5</sup> *Petition of Virginia Electric and Power Company, For approval to implement demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUR-2018-00168, Doc. Con. Cen. No. 190510056, Order Approving Programs and Rate Adjustment Clauses (May 2, 2019) ("May 2, 2019 Order"). The Company refers to the programs approved in the May 2, 2019 Order as "Phase VII."

2019 Order Granting Motion to Extend,<sup>6</sup> filed with the Commission its petition requesting (1) approval to implement new demand-side management ("DSM") programs, (2) to extend the Company's existing Air Conditioner ("AC") Cycling Program; (3) expedited approval to launch three of the Phase VII DSM programs approved in the May 2, 2019 Order with updated parameters and cost/benefit results; (4) approval of revised measures in two existing Phase VII DSM Programs approved in the May 2, 2019 Order; and (5) approval of three updated rate adjustment clauses, Riders C1A, C2A and C3A ("Petition").<sup>7</sup>

In its Petition, the Company requests approval to implement 11 new DSM programs as the Company's "Phase VIII" programs, ten of which are "energy efficiency" ("EE") DSM programs and one of which is a "demand response" ("DR") DSM program, as those terms are defined by Code § 56-576.<sup>8</sup> With the exception of the proposed House Bill ("HB") 2789 program,<sup>9</sup> the Company requests that the Commission permit the Company to operate the following proposed DSM programs for the five-year period of January 1, 2021, through December 31, 2025, subject to future extensions as requested by the Company and granted by the Commission:

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<sup>6</sup> *Petition of Virginia Electric and Power Company, For approval to implement demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUR-2018-00168, Doc. Con. Cen. No. 190930301, Order Granting Motion to Extend (Sept. 17, 2019).

<sup>7</sup> Supporting testimony and other documents also were filed with the Petition. On March 9, 2020, the Company filed corrected schedules to the direct testimony of Deanna R. Kesler and a corrected Filing Schedule 46B, Statements 1-3.

<sup>8</sup> Ex. 2 (Petition) at 7.

<sup>9</sup> In 2019, the General Assembly passed HB 2789, which requires the Company to submit a petition for approval to design, implement, and operate a three-year program of energy conservation measures providing incentives to low income, elderly, and disabled individuals. Consistent with that legislation, the Company is proposing a three-year term for that program. See Ex. 2 (Petition) at 6-8.

- Residential Electric Vehicle (EE and DR)
- Residential Electric Vehicle (Peak Shaving)
- Residential Energy Efficiency Kits (EE)
- Residential Home Retrofit (EE)
- Residential Manufactured Housing (EE)
- Residential New Construction (EE)
- Residential/Non-residential Multifamily (EE)
- Non-residential Midstream Energy Efficient Products (EE)
- Non-residential New Construction (EE)
- Small Business Improvement Enhanced (EE)
- HB 2789 (Heating and Cooling/Health and Safety) (EE)<sup>10</sup>

The Company also requested expedited approval, by March 31, 2020, to launch three of the Phase VII programs approved in the May 2, 2019 Order, with updated parameters and cost/benefit results ("Re-Proposed Phase VII programs"). The Company states that, following issuance of the Commission's May 2, 2019 Order, the Company discovered issues involving the costs for the Residential Customer Engagement Program and the projected participation levels for the Residential Thermostat (EE) Program and the Residential Thermostat (DR) Program. Accordingly, the Company did not launch those programs and requests expedited authorization of the programs in this proceeding with the revised parameters.<sup>11</sup> The Company is also

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<sup>10</sup> *Id.* at 7.

<sup>11</sup> Ex. 2 (Petition) at 9; Ex. 5 (Hubbard Direct) at 11-13.

requesting approval of a revised five-year cost cap for the Phase VII Residential Customer Engagement Program.<sup>12</sup>

The Company proposes an aggregate total cost cap for the Phase VIII and Re-Proposed Phase VII programs in the amount of \$186 million.<sup>13</sup> Additionally, the Company requests the ability to exceed the spending cap by no more than 5%.<sup>14</sup> The Company further "seeks authorization to spend directly for [the Phase VIII] programs for a reasonable amount of time before and after [the proposed] five-year period . . . so that the programs can run for a full five years and then have additional time built in for launch and wind-down activities."<sup>15</sup> The Company further asserts that the total proposed costs of the energy efficiency programs proposed in the Petition will be counted toward the requirement in the 2018 Grid Transformation and Security Act ("GTSA")<sup>16</sup> that the Company develop a proposed program of energy efficiency measures with projected costs of no less than an aggregate amount of \$870 million between July 1, 2018, and July 1, 2028, including any existing approved energy efficiency programs.<sup>17</sup>

The Company also seeks approval to adjust measures in the Phase VII Residential Efficient Marketplace and Residential Home Energy Assessment Programs. Due to recent changes in Federal legislation that allow incandescent light bulbs to be sold beyond 2019, Dominion requests that it be allowed to continue offering incentives for A-line LED bulbs in

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<sup>12</sup> See Ex. 2 (Petition) at 9; Ex. 5 (Hubbard Direct) at 11; Ex. 8 (Bates Direct) at 11.

<sup>13</sup> Ex. 2 (Petition) at 8; Ex. 8 (Bates Direct) at 9-11; Ex. 24 (Morgan) at 5-6. The Company estimates a total five-year cost cap of \$235 million if lost revenues are included. Ex. 2 (Petition) at 8.

<sup>14</sup> Ex. 2 (Petition) at 8.

<sup>15</sup> *Id.*

<sup>16</sup> 2018 Va. Acts Ch. 296.

<sup>17</sup> Ex. 8 (Bates Direct) at 11-12. See Code § 56-596.2.

these Phase VII programs instead of discontinuing this incentive as of January 1, 2020.<sup>18</sup> The Company is not seeking approval of a revised cost cap for those programs.<sup>19</sup>

Additionally, the Company seeks approval of a two-year extension of the existing AC Cycling Program, which is currently set to expire as of March 31, 2021.<sup>20</sup> The Company proposes to cap participation in the program at levels that exist at the end of 2020 and to reduce the incentive from \$40 to \$35 beginning with the 2021 cooling season.<sup>21</sup>

Lastly, the Company requests approval of an annual update to continue three rate adjustment clauses, Riders C1A, C2A and C3A, for a Rate Year of September 1, 2020, through August 31, 2021 ("2020 Rate Year") for recovery of: (i) 2020 Rate Year costs associated with Phase VII programs and programs previously approved by the Commission in Case No. PUE-2011-00093 ("Phase II programs"),<sup>22</sup> Case No. PUE-2014-00071 ("Phase IV programs"),<sup>23</sup> Case No. PUE-2015-00089 ("Phase V program"),<sup>24</sup> and Case No. PUE-2016-00111 ("Phase VI

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<sup>18</sup> Ex. 2 (Petition) at 9-10; *see also* Ex. 5 (Hubbard Direct) at 13-14.

<sup>19</sup> *Id.* at 10.

<sup>20</sup> *Id.*; Ex. 5 (Hubbard Direct) at 6-10.

<sup>21</sup> Ex. 5 (Hubbard Direct) at 9.

<sup>22</sup> *Application of Virginia Electric and Power Company, For approval to implement new demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2011-00093, 2012 S.C.C. Ann. Rept. 298, Order (Apr. 30, 2012).

<sup>23</sup> *Petition of Virginia Electric and Power Company, For approval to implement new demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2014-00071, 2015 S.C.C. Ann. Rept. 230, Final Order (Apr. 24, 2015).

<sup>24</sup> *Petition of Virginia Electric and Power Company, For approval to implement new demand-side management programs, for approval to continue a demand-side management program, and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2015-00089, 2016 S.C.C. Ann. Rept. 275, Final Order (Apr. 19, 2016).

program");<sup>25</sup> (ii) calendar year 2018 true-up of costs associated with the Company's approved Phase II, Phase III, Phase IV, Phase V and Phase VI programs; (iii) calendar year 2018 true-up of costs associated with the Company's Electric Vehicle Pilot Program, which was approved by the Commission in Case No. PUE-2011-00014;<sup>26</sup> and (iv) 2020 Rate Year costs associated with the Company's proposed Phase VIII programs.<sup>27</sup>

The two key components of the proposed Riders C1A , C2A and C3A are the projected revenue requirement, which includes operating expenses that are projected to be incurred during the 2020 Rate Year, and a monthly true-up adjustment, which compares actual costs for the 2018 calendar year to the actual revenues collected during the same period.<sup>28</sup> For Rider C1A, Dominion requests a total revenue requirement of \$2,835,423, due to a 2020 Rate Year projected revenue requirement in the amount of \$3,163,477, and a monthly true-up adjustment credit of \$328,054.<sup>29</sup> For Rider C2A, Dominion requests a total revenue requirement of \$8,388,330, which consists of a 2020 Rate Year projected revenue requirement of \$15,343,575, and a monthly true-up adjustment credit of \$6,955,245.<sup>30</sup> For Rider C3A, Dominion requests a

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<sup>25</sup> *Petition of Virginia Electric and Power Company, For approval to implement new, and to extend existing, demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2016-00111, 2017 S.C.C. Ann. Rept. 384, Final Order (June 1, 2017).

<sup>26</sup> *Application of Virginia Electric and Power Company, For approval to establish an electric vehicle pilot program pursuant to § 56-234 of the Code of Virginia*, Case No. PUE-2011-00014, 2011 S.C.C. Ann. Rept. 436, Order Granting Approval (July 11, 2011).

<sup>27</sup> Ex. 2 (Petition) at 12; Ex. 8 (Bates Direct) at 7; Ex. 10 (Lecky Direct) at 2-4.

<sup>28</sup> Ex. 2 (Petition) at 11.

<sup>29</sup> *Id.* at 13.

<sup>30</sup> *Id.*

projected revenue requirement of \$48,461,666; there is no monthly true-up adjustment.<sup>31</sup> The proposed total revenue requirement for Riders C1A, C2A and C3A for the 2020 Rate Year is \$59,685,418.<sup>32</sup>

For purposes of calculating the 2020 Rate Year projected revenue requirement and 2018 calendar year monthly true-up adjustment, the Company utilizes a general rate of return on common equity ("ROE") of 9.2%, which was approved by the Commission in Case Nos. PUR-2017-00038<sup>33</sup> and PUR-2019-00050.<sup>34</sup>

According to the Company, compared to the rates currently in effect, the proposed revenue requirement represents an overall combined increase of approximately \$11,076,861 for Riders C1A, C2A and C3A.<sup>35</sup> Dominion states that it is not seeking recovery of lost revenues related to energy efficiency programs at this time; however, the Company further states that it is not waiving any right to seek such lost revenues in future proceedings for the 2020 Rate Year.<sup>36</sup>

Dominion proposes that the revised Riders C1A, C2A and C3A be applicable for billing purposes on the latter of September 1, 2020, or the first day of the month that is at least 15 days following the issuance of an order by the Commission approving Riders C1A, C2A and C3A.<sup>37</sup>

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<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 12-13. See *Application of Virginia Electric and Power Company, For the determination of the fair rate of return on common equity to be applied to its rate adjustment clauses*, Case No. PUR-2017-00038, 2017 S.C.C. Ann. Rept. 475, Final Order (Nov. 29, 2017).

<sup>34</sup> Ex. 2 (Petition) at 12. See *Application of Virginia Electric and Power Company, For the determination of the fair rate of return on common equity pursuant to § 56-585.1:1 C of the Code of Virginia*, Case No. PUR-2019-00050, Doc. Con. Cen. No. 191130006, Final Order (Nov. 21, 2019).

<sup>35</sup> Ex. 10 (Lecky Direct) at 11.

<sup>36</sup> Ex. 2 (Petition) at 11-12.

<sup>37</sup> *Id.* at 13.

If the proposed Riders C1A, C2A and C3A for the 2020 Rate Year are approved, the impact on customer bills would depend on the customer's rate schedule and usage. According to the Company, implementation of the proposed Riders C1A, C2A and C3A would increase the monthly bill of a residential customer using 1,000 kilowatt hours per month by \$0.34.<sup>38</sup> The Company has calculated the proposed Riders C1A, C2A and C3A rates in accordance with the same methodology approved in the May 2, 2019 Order.<sup>39</sup>

On December 19, 2019, the Commission issued an Order for Notice and Hearing ("Notice Order") that, among other things: docketed the Petition; required Dominion to publish notice of the Petition; gave interested persons the opportunity to comment on, or participate in, the proceeding; and scheduled a public hearing on the Petition. In addition, the Commission's Notice Order denied the Company's request for expedited review and approval of the Re-Proposed Phase VII programs and stated those programs would be addressed in the final order issued herein. The Commission also assigned a Hearing Examiner to conduct further proceedings in this matter on behalf of the Commission, including filing a final report containing the Hearing Examiner's findings and recommendations.

On April 10, 2020, Alexander F. Skirpan, Jr., Chief Hearing Examiner, issued a ruling stating that, due to the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, and the declarations of emergency issued at both the state and federal levels, as well as the declarations of emergency issued by the Supreme Court of Virginia,<sup>40</sup> the hearing in

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<sup>38</sup> *Id.* at 14.

<sup>39</sup> *Id.* at 11.

<sup>40</sup> *See, e.g.*, Executive Order No. 51, Declaration of a State of Emergency Due to Novel Coronavirus, COVID-19, issued March 12, 2020, by Governor Ralph S. Northam. *See also* Executive Order No. 53, Temporary Restrictions on Restaurants, Recreational, Entertainment, Gatherings, Non-Essential Retail Businesses, and Closure of K-12 Schools Due to Novel Coronavirus (COVID-19), issued March 23, 2020, by Governor Ralph S. Northam, and



this matter, scheduled to begin on April 29, 2020, would instead be conducted via Skype for Business ("Skype"), with no one present in the Commission's courtroom. On April 21, 2020, the Chief Hearing Examiner issued a ruling that established additional procedures for the hearing on April 29, 2020; scheduled a separate hearing session to receive public witness testimony on April 30, 2020; and extended the deadline for filing written comments from April 22, 2020, to May 7, 2020.

The following parties filed notices of participation in this proceeding: the Virginia Energy Efficiency Council ("VAEEC"); Appalachian Voices and Natural Resources Defense Council ("Environmental Respondents"); Walmart Inc. ("Walmart"); the Virginia Poverty Law Center ("VPLC"); and the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel").

On March 20, 2020, Respondents Walmart, VAEEC, and Environmental Respondents filed the testimony and exhibits of their witnesses. On March 27, 2020, the Commission's Staff ("Staff") filed its testimony and exhibits. The Company filed its rebuttal testimony on April 10, 2020.

The evidentiary hearing was held by Skype on April 29, 2020, in which all parties and Staff participated. The hearing continued on April 30, 2020, via Skype, to receive testimony from the public. One public witness appeared to testify.<sup>41</sup>

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Executive Order No. 55, Temporary Stay at Home Order Due to Novel Coronavirus (COVID-19), issued March 30, 2020, by Governor Ralph S. Northam.

<sup>41</sup> In addition, one individual public comment was filed, and comments were filed on behalf of the Sierra Club; the Commonwealth of Virginia Department of Mines, Minerals and Energy; and Community Housing Partners Energy Solutions.

On May 22, 2020, the Company, Staff and all Respondents filed post-hearing briefs, pursuant to the Chief Hearing Examiner's directive issued at the conclusion of the evidentiary hearing.

On June 16, 2020, the Report of Alexander F. Skirpan, Jr., Chief Hearing Examiner, was issued ("Report"). In his Report, the Chief Hearing Examiner summarized the record and made the following findings and recommendations:<sup>42</sup>

1. The Commission should approve the Company's proposed Phase VIII DSM Programs;
2. For the Residential New Construction Program, the alternative to pass 50% of the incentives to customers should be adopted;<sup>43</sup>
3. For the Residential New Construction Program, Staff's recommendation to set the baseline to the standard of the typical home that the builder already constructs without the ENERGY STAR® upgrades should be adopted;<sup>44</sup>
4. For the Non-residential New Construction Program, Staff's recommendation that the Commission require the Company/DNV GL<sup>45</sup> to conduct a baseline study to determine whether minimum building code energy efficiency requirements are an appropriate baseline for new nonresidential buildings, rather than relying on minimum building codes, should be adopted;<sup>46</sup>
5. For the Non-residential Midstream Energy Efficient Products Program, Staff's recommendation that the participating distributor or retailer be required to include, at a minimum, the customer address and contact information in its monthly point-of-sales data should be adopted;<sup>47</sup>

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<sup>42</sup> Report at 75-77.

<sup>43</sup> See Report at 67.

<sup>44</sup> See Report at 67-68; Ex. 20 (Boehnlein) at 23-24; Staff Post-Hearing Brief at 13-14.

<sup>45</sup> DNV GL is Dominion's third-party vendor for evaluation, measurement and verification of program savings. See, e.g., Report at 6.

<sup>46</sup> See Report at 68; Ex. 22 (Dalton) at 44; Staff Post-Hearing Brief at 23.

<sup>47</sup> See Report at 68; Ex. 20 (Boehnlein) at 28; Staff Post-Hearing Brief at 14; Company Post-Hearing Brief at 10.

6. For the Evaluation, Measurement and Verification ("EM&V") for the Non-residential Midstream Energy Efficient Products Program, Staff's recommendation to require the performance of an analysis comparing market penetration of energy-efficient products achieved by non-participating retailers and/or a market lift study should not be adopted in this proceeding, but further developed for consideration in future DSM proceedings;<sup>48</sup>
7. The Commission should direct further study of the baseline assumptions used for the Small Business Improvement Enhancement Program;<sup>49</sup>
8. The Commission should approve the Company's proposed extension of its AC Cycling Program;
9. The Commission should approve the re-launch of the following Phase VII DSM Programs: (i) Residential Customer Engagement Program, (ii) Residential Thermostat Program (EE), and (iii) Residential Thermostat Program (DR);
10. The Rate Year projected revenue requirement for Rider C1A is \$3,163,477, for Rider C2A is \$15,343,575, and for Rider C3A is \$48,461,666;
11. The Monthly True-Up Adjustment for Rider C1A is \$(328,054), for Rider C2A is \$(6,955,245), and for Rider C3A is \$0;
12. The total Rate Year revenue requirement for Rider C1A is \$2,835,423, for Rider C2A is \$8,388,330, and for Rider C3A is \$48,461,666, for an overall total Rate Year revenue requirement for Riders C1A, C2A, and C3A of \$59,685,418;
13. The Company's requested cost allocation methodology and rate design should be approved by the Commission;
14. The terms and conditions indemnity provision for the Phase VI Non-residential Prescriptive Program should be revised as proposed by Walmart;<sup>50</sup> and
15. Staff should be directed to work with the Company and others to develop more rigorous and accurate EM&V data.<sup>51</sup>

<sup>48</sup> See Report at 68-69; Ex. 22 (Dalton) at 39-40; Staff Post-Hearing Brief at 22.

<sup>49</sup> See Report at 69-70; Ex. 22 (Dalton) at 45; Staff Post-Hearing Brief at 23.

<sup>50</sup> See Report at 70-71; Ex. 16 (Perry) at 3-5; Walmart Post-Hearing Brief at 5-8.

<sup>51</sup> See Report at 73-75.

On June 30, 2020, the Company, Staff and Respondents filed comments in response to the Report.

NOW THE COMMISSION, upon consideration of this matter, adopts the Chief Hearing Examiner's findings and recommendations, except as otherwise modified, and to the extent further explained, below.<sup>52</sup>

### Phase VIII Programs

The Commission approves the proposed Phase VIII programs, subject to the modifications directed herein. The 2018 GTSA amended Code § 56-576 to mandate that any energy efficiency program passing three of four specific cost-benefit tests must be found to be "in the public interest" and approved by this Commission.<sup>53</sup> With the exception of the HB 2789 program, which we discuss below, Dominion's proposed Phase VIII programs pass three of the four tests;<sup>54</sup> therefore, the law has pre-determined that these programs are in the public interest and that they shall be approved.<sup>55</sup> Accordingly, the programs are approved for the five-year period of January 1, 2021, through December 31, 2025, subject to future extensions as requested by the Company and granted by the Commission.

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<sup>52</sup> In making our findings and determining the directives ordered – and not ordered – in this matter (including those discussed and those not discussed herein), the Commission has considered all the evidence and arguments in the record. *See also Board of Supervisors of Loudoun County v. State Corp. Comm'n*, 292 Va. 444, 454 n.10 (2016) ("We note that even in the absence of this representation by the Commission, pursuant to our governing standard of review, the Commission's decision comes to us with a presumption that it considered all of the evidence of record.") (citation omitted).

<sup>53</sup> "In the public interest" is defined in Code § 56-576 as "describ[ing] an energy efficiency program . . . [that passes] not less than any three of the following four tests . . . . Such determination shall include an analysis of all four tests, and a program or portfolio of programs shall be approved if the net present value of the benefits exceeds the net present value of the costs as determined by not less than any three of the four tests."

<sup>54</sup> *See* Ex. 6 (Kesler Direct) at Schedule 4 (as corrected).

<sup>55</sup> In addition, we find that there is evidence to support approving the programs for an initial five-year period as requested by the Company. *See, e.g.,* Ex. 5 (Hubbard Direct) at 15-16.

Next, HB 2789, passed during the 2019 General Assembly Session,<sup>56</sup> requires the Company to

submit a petition for approval to design, implement, and operate a three-year program of energy conservation measures providing[] [i]ncentives to low income, elderly and disabled individuals in an amount not to exceed \$25 million in the aggregate for the installation of measures that reduce residential heating and cooling costs and enhance the health and safety of residents, including repairs and improvements to home heating and cooling systems and installation of energy-saving measures in the house, such as insulation and air sealing.

The Company's proposed HB 2789 Program offers incentives for the installation of measures that reduce residential heating and cooling costs and enhance the health and safety of low-income, elderly, and disabled residential customers, including repairs and improvements to home, heating, and cooling systems and installation of energy-saving measures in the house, such as insulation and air sealing.<sup>57</sup> As noted above, this program does not meet three of the four cost-benefit tests under Code § 56-576. The Company, however, is required by HB 2789 to design, implement and operate a three-year program that provides incentives in an amount not exceeding \$25 million for measures like those proposed in this program. Accordingly, we approve the HB 2789 Program for a period of three years from January 1, 2021, through December 31, 2023.<sup>58</sup>

Finally in this regard, the Commission also notes that in response to a request from VAEEC, the Company expressed its willingness to continue working on standardizing the

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<sup>56</sup> 2019 Va. Acts Ch. 748.

<sup>57</sup> See, e.g., Ex. 5 (Hubbard Direct) at 21, 23.

<sup>58</sup> Respondents VAEEC and VPLC propose that the Company revise its low-income eligibility criteria to match federal criteria for participation in low-income weatherization programs (See, e.g., Tr. 58; VPLC Post-Hearing Brief at 4-5). As recommended by the Chief Hearing Examiner, the Commission will not require such change at this time; however, this finding does not preclude changes in the Company's low-income criteria in future proceedings.

process for qualifying low-income projects and post-construction reporting requirements across its regulated and non-regulated low-income programs.<sup>59</sup> The Commission encourages Dominion to continue its efforts in this matter (with VAEEC and others) and requests that the Company provide an update on such efforts in its next DSM filing.

#### Residential New Construction Program

The Commission finds that the builder should not split the incentive with the homebuyer under the Residential New Construction Program. Based on the record in this case, we agree with the concerns cited by the Environmental Respondents regarding problems with splitting the incentive – specifically, that this could reduce the overall energy savings by adding an administrative burden and reducing the likelihood that builders participate in this program in the first place.<sup>60</sup>

#### Proposed Residential Electric Vehicle Programs

The Chief Hearing Examiner addressed Staff's recommendation to combine the proposed Residential Electric Vehicle EE and DR Programs with the proposed Residential Electric Vehicle Peak Shaving Program.<sup>61</sup> The Chief Hearing Examiner "[found] nothing in the record to suggest how combining the two programs could increase benefits to customers or help customers to realize additional energy savings" and agreed with the Company that the programs should remain separate.<sup>62</sup> We agree with the Chief Hearing Examiner, and we approve the Residential Electric

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<sup>59</sup> See, e.g., Ex. 29 (Hubbard Rebuttal) at 19.

<sup>60</sup> See, e.g., Environmental Respondents Comments at 5-6.

<sup>61</sup> See Report at 66-67; Ex. 20 (Boehnlein) at 17.

<sup>62</sup> Report at 67. See also Ex. 29 (Hubbard Rebuttal) at 7-8.

Vehicle EE and DR Programs and Residential Electric Vehicle Peak Shaving Program as proposed by the Company.

#### Phase VII Programs

We agree with the Chief Hearing Examiner's Finding/Recommendation No. 9 and approve the re-launch of the following Phase VII Programs with the updated parameters and cost cap (as applicable): (i) Residential Customer Engagement Program; (ii) Residential Thermostat (EE) Program; and (iii) Residential Thermostat (DR) Program. The Company is permitted to launch these Phase VII programs immediately upon approval, and they are approved for the period ending June 30, 2024, to coincide with the remaining Phase VII programs approved in Case No. PUR-2018-00168.

The Company also requested approval to adjust certain measures in the Phase VII Residential Efficient Marketplace and Residential Home Energy Assessment Programs. Due to recent changes in Federal legislation that allow incandescent light bulbs to be sold beyond 2019, Dominion requests that it be allowed to continue offering incentives for A-line LED bulbs in these Phase VII programs.<sup>63</sup> We approve the Company's request, and we adopt Staff's recommendation that Dominion continue to monitor federal lighting standards and cease offering the A-line LED bulb incentive if the law changes.<sup>64</sup>

#### Phase VI Non-Residential Prescriptive Program

The Commission rejects Walmart's proposed changes to the indemnification provision contained in the Terms and Conditions ("T&C indemnity provision") for this program. Rather,

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<sup>63</sup> Ex. 2 (Petition) at 9-10; *see also* Ex. 5 (Hubbard Direct) at 13-14.

<sup>64</sup> *See* Ex. 20 (Boehnlein) at 34. The Company did not oppose Staff's recommendation. *See* Ex. 29 (Hubbard Rebuttal) at 14.

the Commission finds that the T&C indemnity provision, which is similar to the terms and conditions that the Company has previously used for its non-residential programs, is reasonable for this purpose.<sup>65</sup>

### Cost Caps

The Commission approves the spending amounts for the Phase VIII programs and the revised spending amount for the Phase VII Residential Customer Engagement Program as proposed in Dominion's Petition, with the requested 5% spending variance. We do not impose any cost cap for any individual program other than the amount of program-specific spending Dominion proposed in its Petition.<sup>66</sup> Dominion is not seeking lost revenues in this proceeding, and therefore the amounts for each program approved herein should be spent exclusively on programmatic costs, with no portion for any amount of lost revenues.<sup>67</sup>

We also approve the Company's request to spend directly for the Phase VIII programs for a reasonable amount of time before and after the proposed effective periods of those programs,<sup>68</sup> on the assumption that any such costs are included in the overall cost caps for each program.

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<sup>65</sup> See, e.g., Ex. 29 (Hubbard Rebuttal) at 22 ("The Company has used similar terms and conditions for its non-residential programs for a number of years and has not, to its knowledge, received any complaint regarding this provision [in the past] . . . . The Company further believes that the cited condition is not dissimilar from other program terms and conditions used by other utilities, including Duke Energy and Green Mountain Power."); Company Post-Hearing Brief at 27.

<sup>66</sup> The Commission does not approve a "portfolio" spending amount; the Company may only spend the specific amount approved for each individual program.

<sup>67</sup> The Company also has stated to this Commission in prior cases that it will not seek lost revenues for the years 2018 and before. See Tr. 38 ("So right now 2018 and prior are not going to be subject to any lost revenue request, so it's just the question of whether in a future proceeding we would come forward with a request.") in Case No. PUR-2018-00168, *supra* n. 5.

<sup>68</sup> Ex. 2 (Petition) at 8.



Code § 56-596.2

Code § 56-596.2 C requires Dominion to design, implement, and operate energy efficiency programs and portfolios of programs with projected costs of no less than an aggregate amount of \$870 million for the period beginning July 1, 2018, and ending July 1, 2028, including any existing approved energy efficiency programs. We find that the projected costs of \$173.5 million (not including lost revenues) associated with the energy efficiency programs proposed in the Company's Petition should count toward the \$870 million target established for the Company in Code § 56-596.2 C.<sup>69</sup>

Revenue Requirement

We agree with the Hearing Examiner that the record in this case supports a total 2020 Rate Year revenue requirement of \$59,685,418 for Riders C1A, C2A and C3A.<sup>70</sup> In approving this request for an increase in Riders C1A, C2A and C3A that was filed on December 3, 2019, the Commission notes its awareness of the ongoing COVID-19 public health crisis, which has had negative economic effects that impact all utility customers. We are sensitive to the effects of rate increases, especially in times such as these. The Commission, however, must follow the

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<sup>69</sup> See Ex. 8 (Bates Direct) at 11-12. This amount does not include costs for the Residential Electric Vehicle (Peak Shaving) Program or the Re-Proposed Phase VII Residential Thermostat (DR) Program, which are not energy efficiency programs.

<sup>70</sup> Rider C1A is designed to recover costs of the Company's peak shaving programs. Rider C2A is designed to recover costs for the Company's Pre-Phase VII energy efficiency programs. Due to changes in law concerning which customers are exempt from paying for energy efficiency programs, Rider C3A was designed to recover costs of the Company's Phase VII and Phase VIII energy efficiency programs. See Ex. 24 (Morgan Direct) at 3, 4; 2018 Va. Acts ch. 296. This law changed again with the enactment of the Virginia Clean Economy Act, 2020 Va. Acts ch. 1193 and 1194; this law did not indicate that these changes are to apply retroactively. Accordingly, we will apply to this case the law as it was written at the time the Petition was filed. See *Washington v. Commonwealth of Virginia*, 216 Va. 185, 193, 217 S.E.2d 815, 823 (1975) ("[W]hen a statute is amended while an action is pending, the rights of the parties are to be decided in accordance with the law in effect when the action was begun, unless the amended statute shows a clear intention to vary such rights."); see also *Application of Virginia Electric and Power Company, For approval to implement new demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 c of the Code of Virginia*, Case No. PUE-2011-00093, 2012 S.C.C. Ann. Rept. 298, 299 (Apr. 30, 2012).

laws applicable to any rate case, as well as the findings of fact supported by the evidence in the record. This is what we have done herein.

### EM&V

As we have previously stated, the purpose of DSM programs is to reduce energy usage, either at peak times (demand response and peak shaving) or year-round (energy efficiency). Thus, the true test of any DSM program is whether, *in actual practice*, it is the proximate cause of a verifiable reduction in energy usage. This evidence will be, by definition, retrospective in nature.<sup>71</sup> In previous cases, we have directed the Company to include in its annual EM&V report its evidence of the actual energy savings achieved as a result of each specific program along with revised cost-benefit test results that incorporate actual Virginia energy savings and cost data. In addition, we note that Environmental Respondents and VAEEC also recommend that Dominion be required to present energy investment and savings in a standardized form such as a "dashboard" in future DSM filings.<sup>72</sup>

In the present case, we agree that the record shows more rigorous evaluation, measurement, and verification is necessary to ensure that the programs are, *in actual practice*, the proximate cause of a verifiable reduction in energy usage. The parties are not, however, in agreement as to the required level of rigor, and at what cost.<sup>73</sup> Further in this regard, the Commission agrees with Environmental Respondents and VAEEC that the creation of a standardized "dashboard" will assist in the efficacy of the EM&V efforts undertaken for these

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<sup>71</sup> See, e.g., May 2, 2019 Order at 8.

<sup>72</sup> See, e.g., Ex. 18 (Grevatt) at 20-21; Environmental Respondents Post-Hearing Brief at 12-13; VAEEC Post-Hearing Brief at 7-8.

<sup>73</sup> See, e.g., Staff Post-Hearing Brief at 21-30; Company Post-Hearing Brief at 22-24.

programs. We also find, however, that these issues should be addressed in a separate proceeding to support detailed and complete consideration and determination thereof.

Accordingly, the Commission will subsequently initiate a new proceeding, specific to Dominion, to consider issues related to, among other things, the determination of baselines, the measurement of savings for Dominion's current DSM programs, and the creation of a standardized "dashboard" for reporting energy investments and savings.<sup>74</sup> The Commission will issue a separate order establishing a new docket for such proceeding.<sup>75</sup>

#### Future DSM Filings

Finally, although the new proceeding discussed above will not be completed prior to the Company's next DSM filing, we continue to direct Dominion to file, in every future rate adjustment clause proceeding under Code § 56-585.1 A 5, evidence of the *actual* energy savings achieved as a result of each specific program for which cost recovery is sought, along with revised cost-benefit tests that incorporate actual Virginia energy savings and cost data. We further direct Staff to investigate each such filing, to analyze the program-specific evidence on actual energy savings and the proximate cause thereof, and to report on its findings. As we stated in Case No. PUR-2018-00168, this evidence will be relevant to at least two foreseeable issues: (i) identifying the true cost-effectiveness of DSM programs, which will enable the Commission to determine which programs should be expanded in scope and budget so as to maximize the reductions in energy usage, which ones are least effective and should have their

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<sup>74</sup> In other words, the separate proceeding will be limited to consideration of current programs from the Company's Phase VIII and earlier. As requested by Consumer Counsel, the Commission expressly finds that approval of any DSM program does not prejudice and bind future determinations with respect to verifiable future reductions in energy usage attributable to any DSM program. *See, e.g.*, Consumer Counsel Comments at 2.

<sup>75</sup> As a result of our determination to initiate a separate proceeding for this purpose, the Commission makes no specific findings herein attendant to the Chief Hearing Examiner's Finding/Recommendation Nos. 4, 6, 7, and 15. Report at 76-77. These issues will be subsumed as part of such new proceeding.

budgets shifted to more effective programs, and which ones are not cost-effective and should be discontinued; and (ii) evaluating any claim by Dominion to cost recovery for lost revenues.

Accordingly, IT IS ORDERED THAT:

(1) The Petition is granted as modified herein.

(2) The Company forthwith shall file revised tariffs, designed to recover \$59,685,418, for Riders C1A, C2A, and C3A, and terms and conditions of service and supporting workpapers with the Clerk of the Commission and with the Commission's Divisions of Public Utility Regulation and Utility Accounting and Finance, as necessary to comply with the directives set forth herein.

(3) Riders C1A, C2A, and C3A as approved herein shall become effective for usage on and after September 1, 2020.

(4) Consistent with Code § 56-585.1 A 5, the Company shall file its application to continue Riders C1A, C2A, and C3A no later than December 3, 2020.

(5) Consistent with the Commission's directives in prior cases, the Company shall continue to submit: (a) annual evaluation, measurement and verification reports; and (b) as part of every DSM filing, an exhibit similar to Exhibit 5 in Case No. PUE-2013-00072.

(6) In every future rate adjustment clause proceeding under Code § 56-585.1 A 5, Dominion shall submit evidence of the actual energy savings achieved by each program for which cost recovery is sought.

(7) This matter is continued.

A COPY hereof shall be sent by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.